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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9953 OF 2019

Swapnil Vinayak Rokade

....Petitioner

V/s.

Shashikant Pandurang Chavan
and others

.....Respondents

Mr. Surel S. Shah for the Petitioner

Mr. Arjun Kadam i/b Mr. S. R. Nargolkar for Respondent nos. 1 to 3

CORAM : NITIN W. SAMBRE, J.

DATE: FEBRUARY 10, 2021.

P.C.:

1] Based on common nucleus Dharmaji, Plaintiff filed a Suit for partition in which an Application for amendment Exh. 56 came to be allowed vide impugned order dated 16/08/2019. As such, this Petition.

2] The submissions of Mr. Shah, learned counsel appearing for the Petitioner-Defendant are, Dharmaji died sometime in 1948 and that

being so, daughter cannot claim inheritance.

3] According to him, having brought the aforesaid legal position on record amendment is sought to be incorporated so as to fill in lacuna by claiming that wife of Dharmaji survived till 1963 and as such, right to inherit subsists.

4] Learned counsel has invited attention of this Court to document depicting the death in 1963 so as to claim that there is interpolation.

5] As far as the submissions are concerned, the law is settled. This Court cannot go into the correctness or truthfulness of the contents in the amendment Application and same can be looked into on merit only.

6] What is required to be looked into by the Court is, whether amendment is necessary for deciding the just cause.

7] In the aforesaid background, in the Suit for partition, amendment which is allowed appears to be necessary in the backdrop of the claim made therein.

8] No interference is called for. Petition fails, stands dismissed.

9] However, this will not preclude the Petitioner-Defendant from raising appropriate contentions in the Suit on merit.

[NITIN W. SAMBRE, J.]